

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.196 OF 2005

AND

CIVIL APPLICATION NO.324 OF 2007

IN

LETTERS PATENT APPEAL NO.165 OF 2005

IN

WRIT PETITION NO.10518 OF 2004

Smt.Anusuya Harishchandra
Mhatre and Anr.

.. Applicants

Vs.

The State of Maharashtra & Ors. .. Respondents

Mr.M.M.Kadam i/b Mr.Pratap Patil for the applicants

Mr.R.M.Patne, A.G.P. for the respondents

**CORAM : J.N.PATEL &
A.A.SAYED, JJ.**

DATED : 1ST OCTOBER, 2007

P.C.:

1. On 22.03.03, general election to elect 9 members of Gram Panchayat Kasheli was held for a term of 5 years. In the said election, 6 seats out of 9 seats were reserved for Scheduled Tribes category, one seat was reserved for O.B.C. and 2 seats were reserved for open category. In the

election, only 8 members were elected and no nominations were received for one seat. It so happened that in respect of 5 candidates who were elected from reserved seats, their certificates came to be invalidated by the Caste Scrutiny Committee and they came to be debarred from contesting election for a period of 6 years and criminal proceedings came to be initiated against them.

2. Thereafter some residents of the Kasheli Village filed a Writ Petition seeking directions against the State to hold fresh election or in the alternate appoint administrator. Accordingly, respondents were directed to take action under section 145(1A) of the Bombay Village Panchayat Act, 1958 to dissolve the Gram Panchayat or conduct by-elections in respect of seats, which are vacant. Though this exercise was undertaken for want of nominations, the election could not take place and, therefore, it was decided to hold election. The said order came to be challenged by filing Writ Petition No.10518 of 2004. The learned single Judge of this court dismissed the petition on the

given facts and circumstances and directed the respondents to declare fresh election programme in accordance with law. This order has been impugned in this Letters Patent Appeal in the year 2005 and this court on 6th September, 2005 admitted the appeal and granted ad interim order in terms of prayer clause (b). Now the appellant has moved this application for seeking extension of the tenure of the Kasheli Gram Panchayat in Bhiwandi Taluka of Thane District for a period of one year two months and nine days and as directed not to hold election till the expiry of such extended tenure.

3. In our view, due to passage of time, the original tenure of the Gram Panchayat has almost come to an end. The issue which has been agitated in the Letters Patent Appeal now only remains to be an academic exercise, and, therefore, we vacate the ad interim order granted by this court on 6th September, 2005 and the present application stands rejected.

4. The learned counsel for the appellants to

seeks instruction whether the appellants want to prosecute the Letters Patent Appeal further, or want to withdraw the same. Both the Civil Applications are dismissed accordingly.

(J.N. PATEL, J)

(A.A. SAYED, J)